



LOUISVILLE METRO POLICE DEPARTMENT
OFFICE OF THE CHIEF

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MAYOR

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CHIEF OF POLICE

November 10, 2003

Jerry E. Abramson, Mayor
Louisville Metro Government
527 W. Jefferson Street
Louisville, KY 40202

Mayor Abramson,

Recently the Citizen's Commission on Police Accountability submitted the findings of their review of the James Taylor investigation. I would like to thank Ms. Douglas and the Commission for their numerous hours spent in training and the review of this investigation. I have found the Commission's findings to be both comprehensive and enlightening. I believe their perspective will assist us in developing the nation's best police agency.

I am pleased to say that since my appointment as Chief, the Louisville Metro Police Department has implemented changes that meet, improve, or exceed areas in 14 of the Commission's 16 recommendations. Of the two remaining recommendations, recommendation II has been addressed in part, while recommendation VI requires further research and changes in the current contract.

Enclosed are the recommendations as submitted verbatim by the Commission, followed by my response to each.

Sincerely,

Robert C. White
Chief of Police
Louisville Metro Police Department

RCW/TE/rkg

ENCLOSURE

**Recommendations from the Citizen's Commission on Police Accountability
following a Review of the James Taylor Investigation:**

Recommendation I

Although the Commission acknowledges each individual officer's personal right, pursuant to state statute, to be legally justified in the use deadly force if he/she believes his/her life is in danger, the Chief should issue a guidance document outlining the Department's position on those circumstances where an officer's use of deadly force is justified and urging use of deadly force as an option of last resort.

It's the Commission's understanding that earlier this year Chief White issued a guidance document focusing on the use of deadly force. Therefore, the Commission is aware that the Chief has already accomplished the action recommended here. However, we also believe it's important for the Commission to make recommendations in support of the action the Chief has already taken. The value of such a document lies not merely in the clear guidance and instruction it provides to officers. Such a document also assures the community that its police department has an official position on the use of deadly force with which all officers are familiar.

CHIEF'S RESPONSE

The Department agrees with this recommendation. The Use of Force policy was one of the first policies implemented by the Louisville Metro Police Department. Standard Operating Procedure 9.1 Use of Force/Policy was effective April 17, 2003. This document serves as policy for defining use of force, progression of force, use of physical force, intermediary options, use of chemical agents, post-use of chemical agents, use of special impact munitions systems, impact weapons, use of deadly force, and duties of commanding officers at a "use of force" scene.

Recommendation II

All police officers involved in a use of deadly force incident should be immediately tested after such incident for the presence of drugs and alcohol by a non-police affiliated laboratory. The results of the tests should be sent simultaneously to the Commonwealth Attorney's Office and the Louisville Metro Police Department (LMPD). These test results should become part of the internal and criminal (if applicable) investigation.

The Commission believes such testing will provide a definitive answer concerning the presence or absence of drugs and alcohol, thus preventing the spread of misinformation. When used in this manner, drug and alcohol testing will serve to protect the reputations of the officers involved.

CHIEF'S RESPONSE

The Department agrees in theory with this recommendation. Currently the contracts with the Fraternal Order of Police bind the department on this issue. The contracts clearly states the perimeters in which an officer can be drug tested under random testing, testing on the basis of transfer, and reasonable suspicion. Under the random drug-testing program, the Department continually subjects all officers to unannounced testing. Officers are also required to take drug tests to transfer to specialized units, such as: Narcotics/Vice; Air Patrol; and SWAT Team. Under reasonable suspicion, if there is any reason to believe an officer is using or under the influence of illegal drugs or alcohol, the Department is empowered to direct the officers to be tested. It should be noted that there is no reason to believe that any officers in the Taylor case were under the influence of any drug or alcohol at the time of the incident.

- Currently officers agreeing to be tested could have implications affecting the City and other officers exercising their right not to be tested.

Recommendation III

As part of any investigation involving an officer's use of deadly force, the officer under investigation should have his/her history regarding violent incidents included in the investigation of the incident at hand.

Such information is pertinent when assessing the officer's conduct during any incident.

CHIEF'S RESPONSE

The Department agrees with this recommendation. Officer complaint and discipline history is currently added to all Professional Standards Unit cases as part of that case file. Histories for both O'Neil and Luckett were given to the Commission in the Professional Standards Unit case file. Histories are not a part of criminal files. Criminal cases must stand on their own merit.

- Officer's histories are taken into consideration in every internal case; the most recent example was the Fey case.

Recommendation IV

Create a template that defines elements of a complete investigation to be used when investigating an officer's use of deadly force. The investigation should include an examination of the relationships among all persons involved in the event investigated, including the relationship between the police and the witnesses who support the position of the officers investigated.

A check list would provide a guide or work plan for investigative officers. In addition, including such a document as the first page in any investigative file would provide a quick overview to Commission members of the number of witnesses interviewed, the identify of witnesses and the scenes examined.

CHIEF'S RESPONSE

The Department agrees with this recommendation. The Department's new Public Integrity Unit now has checklists in place to cover all aspects of the investigation so that nothing is left out. Checklists for File Contents, Case Interview/Follow Up, Crime Scene Log and a Case Checklists are used for every case file. Public Integrity will examine relationships of all parties involved in any investigation to discover any motive of bias in their statements.

Recommendation V

Training in non-lethal and less lethal force in management of persons with edge or close range weapons should be provided to all officers.

Such training would reinforce the appropriate use of non-lethal force.

CHIEF'S RESPONSE

The Department agrees with this recommendation. In the past, all officers were trained in non-lethal and less lethal force. When there is no other choice, deadly force is the last resort. Currently officers receive over 254 hours of training in recruit school on use of force and related issues. Under this administration, recruit training has been increased from 22 weeks to 25 weeks. This is the first LMPD recruit class, setting the tone for the future. Part of the reason for this addition is to allow for expanded training on use of force and related issues. In addition, in-service training for 2004 "Contemporary Operational Skills" concentrates on defensive tactics. Officers are generally trained in a variety of force situations. The FireArms Training Simulator (FATS Machine) is an

interactive, computer driven video simulator where officers are evaluated on their ability to assess what is happening, evaluate their surroundings and exercise judgment in the selection of the appropriate level of force. The machine has the ability to portray numerous real-life scenarios where the proper response is non-lethal or less lethal force.

Recommendation VI

The LMPD should adopt the same physical fitness standards, at a minimum, as those used by the Kentucky State Police, especially those standards that relate to officers' ongoing physical fitness.

This recommendation does not arise from the Commission's review of the Taylor investigation. Instead, it is based upon information presented to the Commission during our training sessions. While recruits must meet specific physical fitness standards in order to become officers, there are no ongoing reviews or physical fitness standards officers must meet once they become members of the department. While many officers voluntarily maintain certain fitness levels, not all officers do. The Commission believes fitness standards benefit all officers and the community they serve.

CHIEF'S RESPONSE

The Department agrees in theory with this recommendation. Currently, every recruit goes through 87 hours of physical fitness training during recruit school. Additionally, in-service training in physical fitness is offered as an option for veteran officers. The department is now exploring the physical fitness requirements of other departments and is investigating the impact of such requirements in relationship to gender, age, and labor issues.

It should be noted that the investigation showed the physical fitness of the officers had no bearing on the outcome of this incident. Both officers were and are in excellent physical condition.

- Anticipate labor issue.
- Incentive based is an option.
- Both O'Neil & Luckett were and are in excellent shape.

Recommendation VII

All officers assigned to investigate use of deadly force incidents should receive additional training in interview skills with the goal being maximum proficiency.

Clearly, continual training in investigative techniques will result in investigations that are thorough and adequate.

CHIEF'S RESPONSE

The Department agrees with this recommendation. One of this administration's first initiatives was the creation of the Public Integrity Unit to investigate all officer-involved shootings. All members assigned to this unit are Supervisor/Managers: Sergeants, Lieutenants, and a Captain. All members have attended the Southern Police Institute Homicide School. All are experienced investigators that I personally selected. Continuing education will be a vital part of this unit and members will continue to develop their investigative techniques as opportunities come available. The goal of this unit is to employ the most experienced, competent and best-trained investigators possible.

Recommendation VIII

Video taping of all interrogations/questioning of all potential witnesses or interested parties should occur from the moment of engagement.

After reviewing the investigative file and interviewing the lead detective in the Taylor case, it became apparent to Commission members that preliminary conversations take place with individual interviewees prior to the time their statements are recorded. These preliminary conversations may include establishing the identity of the person being interviewed and a confirmation that they were, in fact, present at the scene. In addition, witnesses may be given the opportunity to provide a summary statement before their response is recorded.

Commission members believe it is important to record all statements provided by witnesses, even statements that can be described as preliminary. Moreover, we also believe it's important to provide a visual record of interviews rather than an audio record alone. A videotape of all interaction with witnesses from the moment of engagement provides a full record of the exchange between witnesses and the investigative officers.

CHIEF'S RESPONSE

The Department agrees in theory with this recommendation. The Public Integrity Unit is now equipped with video cameras in each office for interviewing. It is the unit's Standard Operating Procedure to videotape all witnesses upon entry into the interview room.

In the future, technology may be available that will allow officers to wear cameras to record their every action. However, with current available equipment, facing a large camera may be intimidating to possible witnesses and would impede an investigation. Additionally, with current technology, it is not a practical expectation, in the field, to videotape every person while establishing their identity to confirm, in fact, that they were a possible witness to the incident.

- Citizens will not talk with a camera in their face.

Recommendation IX

While on duty, all officers should be required to carry on their person at least one less lethal weapon at all times (i. e. mace, asp, etc.)

Commission members are aware that Chief White has already instituted this recommended policy. However, we have included this item as one of our recommendations to show support for the action Chief White has taken.

CHIEF'S RESPONSE

The Department agrees with this recommendation. The Department Standard Operating Procedure Chapter 4, effective July 12, 2003, requires all officers to carry at least one non-lethal weapon at all times while on duty. In addition to their service weapon and handcuffs, officers must also carry a Tactical Baton (ASP or PR-24), or Mace (OC Spray).

Recommendation X

Examine procedures for controlling situations involving multiple participants.

CHIEF'S RESPONSE

The Department agrees with this recommendation. Current recruit training already involves providing techniques for controlling situations with multiple participants. We utilize reality-based training scenarios to place recruits into situations that they will likely encounter in the field. They are expected to demonstrate a variety of verbal, physical, and tactical skills in dealing with the different situations. Similar training has been used in past continuing education classes for veteran officers. The main emphasis of our 2004 in-service training, "Contemporary Operational Skills," will be defensive tactics.

We believe this, along with all training, should be an ongoing process to stay abreast of best practices. The Training Unit will re-evaluate current techniques and seek information from other agencies that employ such training.

Recommendation XI

Handcuffing techniques, pulling down techniques and all policies regarding the use of such police practices should be improved to minimize the ability of detainees to be mobile.

CHIEF'S RESPONSE

The Department agrees with this recommendation. The Department established Standard Operating Procedure 10.5, effective June 11, 2003, addresses the safety of prisoners in an officer's care. The procedure addresses handcuffing and the use of alternative restraining devices. It should be noted that the procedure reflects the ideal situation, which may not always be possible in field situations. The Department's use of force policy addresses when such techniques may be appropriate depending on the amount of resistance an officer may encounter.

Both former departments provided training to recruits and officers in the use of handcuffs and these alternative-restraining devices. Our current recruits receive many hours of training on defensive tactics. Additionally, in continuing education classes, techniques such as "speed cuffing" are shared and practiced. Officers also practice a variety of defensive tactics including the "SWARM" technique, which involves a coordinated team of officers taking a person to the ground using minimal force. In next year's in-service training, "Contemporary Operational Skills," there will be an even greater focus on the use of defensive tactics as an alternative to lethal force.

Recommendations XII

All officers should receive periodic training that focuses on persons with mental illness, individuals with developmental disabilities, substance abuse, and domestic violence.

CHIEF'S RESPONSE

The Department agrees with this recommendation. The value of human life and the respect of all human rights are clearly reflected in our use of force policy. The Louisville Metro Police Department is committed to improving our response to incidents involving the mentally ill and emotionally disturbed. It is our goal to reduce the amount of risk to both our citizens and our officers. Improvements to training have already been put into place.

Recruit school has been expanded from 22 weeks to 25 weeks. This expansion will allow us to ensure that all future officers are part of the Department's Crisis Intervention Team (CIT). CIT training introduces officers to clinical issues pertinent to the mentally ill. The training's instruction consists of role-playing and demonstrations on issues surrounding psychiatric symptoms, psychotropic medications, substance abuse, and suicide prevention/assessment. We have already increased the number of CIT certified veterans on the street and we are committed to the continued expansion of this program. We have also secured funding for additional less lethal weaponry to provide these officers with additional options for dealing with violent, mentally ill or emotionally disturbed individuals.

- This is of such an importance to the department that I have assigned an Assistant Chief to work on this issue.
- Michael O'Neil was CIT trained

Recommendations XIII

Given the growing diversity within the Louisville/Jefferson County Metro area, police officer training should be modified in order to require each officer to participate in mandatory, periodic diversity issues training.

CHIEF'S RESPONSE

The Department agrees with this recommendation. Every officer on the Louisville Metro Police Department received cultural diversity training this year as part of their annual in-service training. Recruits are exposed to many hours of cultural diversity training throughout their time at the academy. The concept of cultural diversity is so important to our daily interactions with the public, that we have recently incorporated it throughout our training. The importance of recognizing cultural differences and reacting appropriately are themes that are interwoven throughout both recruit school and in-service training.

In the future, the Louisville Metro Police Department will remain committed to providing our officers with diversity training on an on-going basis. We are now in the process of putting together a Spanish Emersion Course that will expose at least 20 officers to an in-depth Spanish language course that incorporates travel to Mexico for additional training through total emersion in the Spanish culture. Recently, approximately 100 officers attended the Arabic Culture Training provided by the Regional Crime Prevention Institute. Additionally, the Department's Citizen's Academy is now geared towards target populations within our community to enhance our ability to communicate. For example, our next academy will be geared toward the Latino population.

Recommendation XIV

Evaluate current training facilities to ensure they have the capacity to provide appropriate access to training equipment, particularly the FATS machine, given the number of officers.

CHIEF'S RESPONSE

The Department agrees with this recommendation. With the merger of the two departments, we are currently assessing all facilities to ensure our needs are met in the most efficient way possible. As part of this process we are evaluating our training facilities. It should be noted that we now actually have three training facilities. We conduct recruit training and driver's training at Southfields, in-service training at our Taylor Boulevard training facility and firearms training at

our Firearms Training Center on Algonquin Parkway. We have FireArms Training Simulator (FATS) machines at both Southfields and at the Firearms Training Center. Our goal is the unification of all three training facilities into one that can deliver enhanced training in a more effective manner.

Recommendation XV

The LMPD should develop an annual certification in defensive tactics that is required for all police officers serving in the field.

CHIEF'S RESPONSE

The Department agrees with this recommendation in that it is our current policy to re-certify our officers in such defensive tactics as the employment of the Tactical Baton (ASP). In addition, the focus of our 2004 in-service training, "Contemporary Operational Skills", will focus on defensive tactics. This will be our first opportunity to expose all of our officers to the same tactics and could set the base line for any future defensive tactics certification.

The former JCPD did certify annually in Tactical baton (ASP and PR-24). This year, the former LPD officers were all certified in the Tactical baton (ASP). From this point forward, officers will receive annual recertifications in these weapons.

Recommendation XVI

That the Department of Professional Standards maintain a database of all citizen complaints against an officer, all incidents involving use of force, and all incidents involving use of deadly force by an officer.

CHIEF'S RESPONSE

The Department agrees with this recommendation. Prior to merger, both departments had a tracking system in place. Currently, the department is in the process of purchasing a new, enhanced system. This new system will combine both old systems and have the ability to provide state of the art tracking on a variety of factors that enhance our early warning capabilities.